



BRIEF IN SUPPORT OF PETITION.

QUESTIONS INVOLVED.

1. Is the judgment of the circuit court of appeals third circuit on appeal No. 8664 a final and appealable judgment?

2. Did the circuit court of appeals third circuit adjudicate any of the issues presented?

3. Did the circuit court of appeals act properly in affirming the judgment of the district court on appeal No. 8664?

4. Is the judgment of the circuit court of appeals on appeal No. 8664 in conflict with:

a. Its own judgment on appeal No. 8027?

b. In conflict with the decisions of the district court in the same matter between the same parties and substantially the same facts?

c. In conflict with the determination of this Court on Petition for Writ of Certiorari No. 779?

d. In conflict with the decisions of every other circuit court of appeals?

e. In conflict with applicable decisions of this Court?

f. In conflict with the weight of authority?

5. Is the second judgment of the said circuit court in the same matter between the same parties and substantially the same facts tenable?

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6. Has the said circuit court departed from the accepted and usual course of judicial proceedings? or, Has the circuit court of appeals sanctioned such departure by the district court?

7. Is the judgment of the district court in civil Nos. 728 and civil 2800 supported by the pleadings upon which it purports to have been based?

8. Were the District Court (Guy L. Fake, J.) justified in conspiring with H. Collin Minton, Jr., to take it upon themselves and upset the judgment of:

a. The Circuit Court of Appeals Third Circuit on appeal No. 8027.

b. The Determination of this Court on proceedings for Writ of Certiorari affirming the said judgment of the said circuit court?

c. The Findings of Fact and Conclusions of Law, Memorandum Opinion, entered in civil No. 728, of November 19, 1941?

9. Were the District Court justified in granting motions Nos. 1, 2 and 3 (pages 18-19-20 and 2/3rds of page 21 of Complaint in civil No. 2800)?

10. Did the petitioner herein and plaintiff in the District Court act properly in applying for default and decree pro confesso against the defendant Utah Fuel Company upon its failure to plead or otherwise defend as provided by the Federal Rule of Civil Procedure 12 (a) (1); 55 (a)?

11. Did the petitioner herein and plaintiff in the district court act properly in applying for decree on mandate on the defendant's default and on the authority of the judg-

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ment of the circuit court of appeals third circuit, and the determination of this Court on Certiorari No. 779?

12. Did the petitioner herein and plaintiff in the district court act properly in applying to the District Court to take Deposition in accordance with Federal Rules 26; 28 (a) (b); 31 (a) (c) of the Federal Rules of Civil Procedure for the district courts following section 723c of Title 28 U.S.C.A.

13. Is the District Court justified in refusing to either grant the motions or deny them and holding them under advisement and subjecting the plaintiff to humiliations and unnecessary expenditures for so many years and finally conspire with counsel for the defendant Utah Fuel Company and directed him to plead the statute of limitations?

14. Did the plaintiff below and petitioner here act properly in applying for the relief provided by the law found in section 21 of the Judicial Code (Act of August 24, 1937, Ch. 751, 50 Stat. 751, Sec. 13) after he faced the District Court conspiring with H. Collin Minton, Jr., Counsel for the defendant Utah Fuel Company et als.?

15. Did petitioner herein and plaintiff in the District Court act properly in applying to the circuit court of appeals third circuit by Petition for designation of a District Judge to proceed to trial (No. 8395)?

16. Were the said circuit court of appeals third circuit justified in denying relief of and from the arbitrary and conspirative conduct of District Judge Guy L. Fake?

17. Have not the said circuit court of appeals third circuit and the district court of the United States for the Dis-

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trict of New Jersey departed off and from the usual course of judicial proceedings and boarded the rowboat of stormy discrimination in the administration of justice against a loyal friend of the United States and its citizens as well as all other persons within its jurisdiction?

18. Are these said courts justified in permitting such an infernal conspiracy to be carried on within their jurisdiction?

19. Was the Circuit Court of Appeals Third Circuit properly constituted to hear appeal No. 8664 when it summoned Circuit Judge Thomas F. McAllister from the 6th circuit to sit in the place of the judges within the circuit who have knowledge of the conspiracy?

20. Is the sum or value in controversy material to sustain the District Court's jurisdiction?

21. Is H. Collin Minton, Jr., counsel pro se Utah Fuel Company et als. privileged to carry on the conspiracy with immunity within the District Court's jurisdiction and within its court rooms thus carrying into execution or part execution the acts of every other conspirator?

22. Are the Attorney General and Assistant Attorney General justified in coming in and entering their appearance as co-counsel with said H. Collin Minton, Jr. and H. Brua Campbell, attorneys for Utah Fuel Company et als; and adopt and stand upon the pleadings of said local attorneys?

23. In Addition to these said questions this Court is petitioned to consider the Questions Involved and set out in

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the Brief (pages 1-5) to the Circuit Court of Appeals. Your petitioner herein deems his said brief important to the consideration of this proceeding for the reasons he gives in his petition and this brief. (Hughes Federal Practice, Section 6235.)

STATEMENT OF THE CASE.

1. (Q. Inv. 1. Is the Judgment of the Circuit Court of Appeals Third Circuit on appeal No. 8664 a Final and Appealable judgment?

1. The judgment of the District Court in civil Nos. 2800 and 728 is a final and appealable judgment within the meaning of section 129 of the Judicial Code as it is set out on page 2 of the Appendix of the Rules of this Court (227 U.S.C.A. Title 28). The appeal to the circuit court of appeals third circuit was applied for within thirty days from the entry of the Orders entered on the Opinion of Judge Guy L. Fake in accordance with the provisions to that effect of the said section; and section 240 of the Judicial Code (347 U.S.C.A. Tit. 28) is made applicable to the cases in the circuit court of appeals. The citations set forth under Ch. on page are repeated here. The Mandate of the Circuit Court of Appeals finally settled whatever was before the court. Honold Supreme Court Law, page 1567 and cases cited thereunder (pages 57, 58, 59 of Brief to C.C.A. 3rd C). The matter is fully presented by the petition for certiorari and the court's Decision is essential to a complete review of the District Court. Section 240 (a) Judicial Code (28 U.S.C.A. Sec. 347) United States v. Bankers Trust Co., 294 U. S. 240, 294, 295, 79 L. Ed. 885,

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896, 5 S. Ct. 407, 95 A.L.R. 1352. Such action is in the interest of expedition. Continental Illinois National Bank & T. C. v. Chicago, R. I. & P. R. Co., 294 U. S. 648, 685, 79 L. Ed. 1119, 1133, 55 S. Ct. 595;

b. The judgment of the District Court in civil No. 2800 carried with it the life of its companion case civil No. 728 upon which it was based and for which it was intended to protect. The District Court included in its Opinion in Civil No. 2800 Civil No. 728 notwithstanding its adjudication upon the demurrer of the defendants, upon appeal to circuit court of appeals and the proceedings for writ of certiorari in this Court.

2. (Q. Inv. 2. Did the Circuit Court of Appeals Third Circuit adjudicate any of the issues presented?)

2. The Circuit Court of Appeals failed to adjudicate the issues presented. Further argument on this see: Your Petitioner's Brief to the said circuit court of appeals. b. Ch. pages of the foregoing petition.

3. (Did the circuit court of appeals act properly in affirming the judgment of the District Court on appeal No. 8664?)

3. (Q. Inv. 3. The Circuit Court of Appeals committed a grave error in affirming the second judgment (on appeal No. 8664) of the District Court. For further argument on the question see Ch. N. O. pages 142-162 of Appendix hereunder; also Questions Involved 19, 20, 21, 22, 23, pages 45 to 57 of the Brief to said C.C.A. 3rd C. No. 8664; Ch. Ea. Pet.

Upon the failure of the circuit court to write an Opinion and give its reasons upon which it based its Opinion, out of necessity, the Opinion of Judge Guy L. Fake must be

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read into that of the circuit court of appeals; and reading said opinion into that of the C.C.A. 3rd C. No. 8664, it destroys the Opinion of the District Court entered November 19, 1941, on the demurrer of the defendants Utah Fuel Company et als.; and in turn its own judgment in appeal No. 8027. For further argument and authorities upon this question see Ch. N. O. pages 142-162 of the foregoing petition.

4. (Q. Inv. 4. Is the judgment of the circuit court of appeals on appeal No. 8664 in conflict with:

a. Its own judgment on appeal No. 8027?

4. a. The said judgment is in conflict with its previous judgment in No. 8027 appeal. In its prior judgment the said court held as follows: PER CURIAM:

For the reasons sufficiently set forth in the memorandum opinion of Judge Walker filed November 19, 1941, the orders of the District Court from which the plaintiff has appealed are affirmed. For further argument on this see Ch. D. pages 20-23, Ch. Fa. pages 106-114 of foregoing petition.

4. b. (In conflict with the decisions of the District Court in the same matter between the same parties and substantially the same facts?)

b. The said judgment of the circuit court of appeals is in conflict with the decision of the District Court of November 19, 1941. See argument and authorities under Ch. of foregoing petition.

4. c. (In conflict with the determination of this Court on Petition for Writ of Certiorari No. 779?)

4. c. The reported case shows that this court affirmed the judgment of the circuit court of appeals on appeal No.

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8027; taking it that it means what is said, the said judgment of the C.C.A. 3rd C. is in conflict with the said judgment of this court.

4. d. (In conflict with the decisions of every other circuit court of appeals?)

4. d. It is in conflict with the decision of every other circuit court of appeals. Further argument and authorities and citations of cases cited, see Questions Involved 17 to 23 inclusive of Brief to C.C.A. 3rd C.; also Ch. N. O. pages 142-162 of foregoing petition and the argument set forth in the appendix pages; Ch. Ea. Pet.

4. e. (In conflict with applicable decisions of this Court?)

4. e. By reference the authorities cited above in 4. d. are repeated here. It is as well untenable as unnecessary to repeat the same thing over and over again. (Direct and concise. Sup. Ct. Rule 38, 2.)

4. f. (In conflict with the weight of authority?)

4. (f. By reference the argument cited in 4. c. above are repeated here.)

5. (Q. Inv. 5. Is the second judgment of the said circuit court in the same matter between the same parties and substantially the same facts tenable?)

5. The judgment of the said circuit court is untenable because it deprives the petitioner herein of the property rights which he acquired under the previous judgment of the District Court and of the same court. To the same

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effect and with like force the Opinion written and entered by Judge Thomas Glynn Walker on November 1, 1941. It deprives the petitioner herein of property without due process of law.

6. a. See Reason J. K. L. M. of Petition to which this Brief is attached; Van Fleet's Former Adjudication. Demurrer Matters Settled Upon Res Judicata (pages 672-674; pages 162-172) Pet.

6. a. See Reason of Petition to which this Brief is attached Van Fleet's Former Adjudication. Demurrer Matters Settled Upon Res Judicata (pages 672-674).

b. The Memorandum Opinion of Judge Thomas Glynn Walker, see citation above and below) and the judgment of the C.C.A. 3rd C. on appeal No. 8027, set at rest the matters and things adjudicated. In such case another proceeding can not be maintained upon the cause, nor upon any part of it on a matter or question, or matters or questions either of law or fact are res judicata, or set at rest.

The Bar is absolute. The Bar to a fresh trial or decision on account of the principle of res judicata is absolute, and as against all the parties to the suit in which that decision was passed. Van Fleet's Former Adjudication. Sec. 1 et seq.

c. Departed: 2. Separated, parted; schismatic apostate. Oxford Dict.; Usual: 1. That in ordinary use or observance; having general currency, validity, or force; commonly observed or practiced. Oxford Dict.; Course: 22. A planned or prescribed series of actions or proceeding. Oxford Dict.: Judicial proceedings: A general term for proceedings relating to, practiced in, or proceeding from, a

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court of justice; or the course prescribed to be taken in various cases for the determination of a controversy or for legal redress or relief. Black's Law Dict. Second Edition. Citing: See Hereford v. People, 197 Ill. 222, 65 N. E. 310; Martin v. Simpkins, 20 Colo. 438, 38 Pac. 1002; Mullen v. Reed, 64 Conn. 240, 29 Atl. 478, 24 L.R.A. 664, 42 Am. St. Rep. 174; Aldrich v. Kinney, 4 Conn. 386, 10 Am. Dec. 151.

The answer is that the C.C.A. 3rd C. has departed, and well and good from the accepted and usual course of judicial proceedings; and it has repeatedly sanctioned the departure by the District Court without probable cause.

7. (Q. Inv. 7. Is the judgment of the district court in civil Nos. 728 and civil 2800 supported by the pleadings upon which it purports to have been based?)

7. The judgment of the District Court in civil Nos. 728 and civil 2800 is not supported by the pleadings upon which it is purported to have been based. Not only the Opinion is not based upon nor supported by the motions filed, but on the contrary it contains utter falsifications of the same as well as the whole proceedings and declaration of civil No. 728. For further argument on this see Ch. Y. Z., pages 82-86, of foregoing petition wherein the motions filed are set forth.

8. Q. Inv. 8. Were the District Court (Guy L. Fake, J.) justified in conspiring with H. Collin Minton, Jr., to take it upon themselves and upset the judgment of:

a. The Circuit Court of Appeals Third Circuit on appeal No. 8027?

b. The Determination of this Court on proceedings for

Writ of Certiorari affirming the said judgment of the said circuit court?

c. The Findings of Fact and Conclusions of Law entered in civil No. 728, of November 19, 1941?)

The District Court or Judge Guy L. Fake is not justified in joining H. Collin Minton, Jr., counsel pro se, Utah Fuel Company, et als., and staging the conspiracy they staged in open court in the court room of said judge thereof, and in taking it upon themselves to deprive your petitioner of life, liberty and property without due process of law. *Wong Wine v. U. S.*, 163 U. S. 228, 238; *Terrace v. Thompson*, 263 U. S. 197, 216. See also *Truax v. Raich*, 230 U. S. 33, 39; *Home Ins. Co. v. Dick*, 281 U. S. 397. There is no reason in law why a United States Judge should go off the Judicial Course of Proceedings and join in with the counsel for the defendants in a civil action and dictating ways and means to destroy the plaintiff in the cause. Procedural Due Process. Whatever else may be uncertain about the definition of the term, all authorities agree that it inhibits the taking of one man's property and giving it to another, contrary to settled usages and modes of procedure. *Ochoa v. Hernandezy Morales*, 230 U. S. 139. By reference the parts of the U. S. Const. and Authorities and cases cited and quoted on pages 18-36 of the Brief to C.C.A. 3rd C. are repeated here.

9. (Q. Inv. 9. Were the District Court justified in granting motions Nos. k, 2, and 3 (pages 18-19-20 and 2/3rds of page 21 of Complaint in civil No. 2800) ?

9. Judge Thomas G. Walker erred in applying and construing the law found in section 112 (Judicial Code, Section 51) U.S.C.A. Tit. 28 to motions numbered 1, 2 and 3.

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In other words, conformity applies only in the absence of direct congressional legislation upon the subject (Hughes Federal Practice, Vol. 6, Ch. 78, Sec. 3562. Citing: Note 55. *Berry v. Mobile & O. R. Co.* (1) C. Ky. 1915, 228 F. 395) and goes no further than to provide a general rule regulating practice and procedure in the absence of express congressional enactment on the subject, and does not repeal any previous act of Congress expressly requiring a particular mode of proceeding in any given class of case. 56 (*Wear v. Mayer*, 6 F. 658-660). For further argument on the question see Ch. , pages , of foregoing petition to which this brief is a part.

10. (Q. Inv. 10. Did the petitioner herein and plaintiff in the District Court act properly in applying for default and decree pro confesso against the defendant Utah Fuel Company upon its failure to plead or otherwise defend as provided by the Federal Rules of Civil Procedure (12, (a) (1); 55 (a)?)

10. The application for default judgment is a matter of right. For further argument on this subject see Question Involved 27, on pages 62-66 of Brief to C.C.A. 3rd C. Also Ch. of foregoing Petition.

11. (Q. Inv. 11. Did the petitioner herein and plaintiff in the District Court act properly in applying for decree on mandate on the defendant's default and on the authority of the Judgment of the circuit court of appeals third circuit, and the determination of this Court on Certiorari No. 779?)

11. The procedure followed is governed by Federal Rule 55. See pages 62-66 of brief to C.C.A. 3rd C.

12. (Q. Inv. 12. Did the petitioner herein and plaintiff in the District Court act properly in applying to the District Court to take depositions in accordance with Federal Rules 26; 28 (a) (b); 31 (a) (c) of the Federal Rules of Civil Procedure for the District Courts following section 725c of Title 28 U.S.C.A.)

12. The right to give evidence is an inherent and inalienable right from times immemorial. It is a common law right. It is a Constitutional right (Amdt. VI). And it is a statutory right (Section 43 of Tit. 8, U.S.C.A.) and it is embodied into the Federal Rules of Civil Procedure for the District Courts of the United States following Section 725c of Tit. 28 U.S.C.A., Rules 26, 28 (a) (b); 31 (a) (c).

In this case in the Courts below the defendants come and say the plaintiff is so and so and no proof is required from them. The plaintiff sets forth the truth in his declarations and pleadings and moves the court at the plaintiff's expenses to examine parties and witnesses as well as the records of places in which he was incarcerated for suing the defendant Utah Fuel Company. The District Court answered: Yes, give me your proceedings and I will take them under my advisement. It took the petitioner's proceedings under advisement now going five years ago and still keeps them under its advisement. It now joined in the conspiracy and declared that the plaintiff must die in poverty a martyric death. It surely sounds like a court of justice speaking impartially while it was administering justice.

13. (Q. Inv. 13. Is the District Court justified in refusing to either grant the motions or deny them and holding them under advisement and subjecting the plaintiff to humiliations and unnecessary expenditures for so many

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years and finally conspire with counsel for the defendant Utah Fuel Company and directed him to plead the statute of limitation?)

13. This is another grave error on the part of the District Court as well as the Circuit Court of Appeals. There may be other persons in the United States as equally good as the petitioner and more better men in every way than the petitioner; and there may be others more loyal to the United States and its citizens than this petitioner is; but there is no reason in law or equity why this petitioner may not have the testimonies of his witnesses in his defense while in the hands of the conspirators. While his applications to take Depositions on written interrogatories are thus held up by the District Court, it placed Civil No. 728 on the Trial Calendar at Newark before Judge Fake. How could this petitioner go on trial which is staged in execution of the conspiracy between Judge Guy L. Fake and H. Collin Minton, Jr., without the testimonies of his witnesses to try and dismiss the cause on the authority of 104-C, 2, Laws of the State of Utah?

14. (Did the plaintiff below and petitioner here act properly in applying for the relief provided by the law found in Section 21 of the Judicial Code, as amended by the Act of August 24, 1937, Ch. 754, 50 Stat. 751, Section 13, after he faced the District Court conspiring with H. Collin Minton, Jr., Counsel pro se and Utah Fuel Company et als.?)

14. Any suitor in a civil cause who will face his wrong doers or conspirators in a court room, out of necessity and for the protection of his person, will have to resort to relief from his wrongdoers. The proceedings are not based upon information and belief, but upon statements

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made in furtherance of the object of the conspiracy made so and intended to destroy the petitioner and his cause. See paragraph 4 of statement of the case in brief to C.C.A. 3rd C. on Appeal No. 8664; pages 8 to top of page 11 of Questions Involved; pages 30-35; pages 69-87 of said Brief; pages 287-308, Record.

15-16. (Did petitioner herein and plaintiff in the District Court act properly in applying to the Circuit Court of Appeals Third Circuit by Petition for designation of a District Judge to proceed to trial (No. 8395?)

This is a matter of self defense. So long as Congress was aware that sovereign powers are delegated to the agencies of the Government and might be used to satisfy personal and arbitrary ambitions of those agents who happened to be entrusted with such powers, and thought it to be just and reasonable to enact definitions and limitations of those powers there is no reason whatever why not resort to statutory relief from the hands of oppressors. Such is the law found in the statutes cited above. *Berger v. U. S.*, page , Petition; pages 72-73, Brief to C.C.C.A.; *Yick Wo v. Hopkins*, pages 77-78, Brief to C.C.A. 3rd C.; *Mitchell v. U. S.*, pages 73-76, Brief to C.C.A. 3rd C.; *Whitaker v. McLean*, Full Decision, pages 69-72 Brief to C.C.A. 3rd C. As long as there is such Act of Congress always ready for every one; always at the aid and assistance of every one; why not to the aid of this petitioner? The statute can only be falsely used by making and filing a false affidavit and if this petitioner have had done such thing the conspirators would have been on top of him the very minute he exhibited his affidavit or proceeding. *Berger v. U. S.*, *supra*. The charges were and are true and the proceedings reasonable and just under the law, and the denial of the relief prayed for by the petitioner was unreasonable, untenable and unlawful.

17. (Q. Inv. 17. Have not the said Circuit Court of Appeals Third Circuit and the District Court of the United States for the District of New Jersey departed off and from the usual course of judicial proceedings and boarded the rowboat of stormy discrimination in the administration of justice against a loyal friend of the United States and its citizens as well as all other persons within its jurisdiction?)

18. (Q. Inv. 18. Are these said courts justified in permitting such an infernal conspiracy to be carried on within their jurisdiction?)

The Opinions of this Court in the matters of: *United States v. Kissel*; *Hyde and Schneider v. United States*; and *Brown v. Elliott* set forth in the Appendix by reference are made parts of the argument on this question. The principles of the law of conspiracy as applied and construed by this Court in those said cases govern the conspiracy before this Court on this proceeding. Further, it is the duty of the Court below to finally determine the entire controversy before it, and to do complete justice by adjusting all the rights involved therein. *Sanborn, Van Devanter, Hook, and Adams, in Re. U. S. v. Standard Oil Co.*, 152 Fed. 290. The Court below are bound to proceed to judgment and to afford redress to the plaintiff before them. *Snydam v. Broadnax*, 14 Pet. 67; *Union Bank v. Jolly's Administration*, 18 How. 503. Where a case, as in this case, is made upon a bill which is within the jurisdiction of the Court below, it is bound to maintain such action and proceed to trial. The law should and ought to be enforced as against all. *McClelland v. Garland*, 217 U. S. 268. This rule of law does not govern Judge Guy L. Fake, and in so far as the petitioner's cause is concerned, never did. Falsity rules and falsity governs.

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19. (Q. Inv. 19. Was the Circuit Court of Appeals Third Circuit properly constituted to hear Appeal No. 8664?) See the Record, page 345. This is a New Jersey case and has flared up as it is stated in the Petition and the Pleadings making up the record. Further argument on this is not permitted. This Court may infer what is going on.

20. (Q. Inv. 20. Is the sum or value in controversy material to sustain the District Court's jurisdiction?)

The sum or value of the matter in dispute is immaterial in cases which are within the inhibition of the Civil Rights Act which are set forth in the subdivisions of Section 41 of Tit. 28 U.S.C.A.; to the same effect and with like force Sections 1 to 7, 15, 26 of Tit. 15; and all other jurisdictional subjects set forth thereunder. Last clause of Section 41 of Title 28 U.S.C.A. See the parts of the statutes set forth in full in the Appendix here.

21. (Q. Inc. 21. Is H. Collin Minton, Jr., counsel pro se, Utah Fuel Company et als., privileged to carry on the conspiracy with immunity within the District Court's jurisdiction and within its court rooms thus carrying into execution or part execution the acts of every other conspirator?)

21. This is a cause where several persons conspire to unlawfully injure the petitioner herein. They are jointly and severally liable. Cooly on Torts, 4th Ed. Sec. 47. See the several sections set forth in the Appendix. By way of reference the same are repeated here. This said counsel has been given his own way and openly stages bargains to buy the judgment of the court and practices every deception to accomplish the object of the conspiracy as it has been operated by his associates in crime. Perjured and infernal papers are gathered all over where the conspiracy

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has been operated by his fellow conspirators and for the fee paid to him by the operators of the conspiracy he goes on into court and stages his mob tactics and off he goes as Mr. Minton. He does these in both of the lower courts and he is prepared to keep on doing it knowing that the instructions he receives from the officials of the Utah Fuel Company are perjured and deceptive but nevertheless he personally carries on the conspiracy to every step of its execution; and now and then he mobs your petitioner herein physically and personally and now and then assisted by others. There is no reason in law why he should be free to carry on the conspiracy and openly defeat the administration of justice in the courts of the United States. Further on this see his Motion for Injunction and the exhibits attached thereto.

22. (Q. Inv. 22. Are the Attorney General and Assistant Attorney General justified in coming in and entering their appearance as co-counsel with said H. Collin Minton, Jr., and H. Brua Campbell, attorneys for Utah Fuel Company, et als.; and adopt and stand upon the pleadings of said local attorneys?

The attorney general is a member of the Board of Criminal Identification of the State of Utah (22-0-1 R. S. Ut.) As such he has the record of your petitioner under his jurisdiction. He knows that the State of Utah has not and never has had a cause to make a lawful complaint against your petitioner, nevertheless they took up the defense of those who were made and paid to carry on the conspiracy IN ORDER TO COVER the criminal operations of the defendant Utah Fuel Company. Further on this see pages of the Record. Will it be unjust to require them to produce the records of the Criminal Insane Asylum at Provo, Utah, and show that the facts are or are not as stated in the pleadings? May we not examine those who executed

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the barbaric theriodies in defense of the respondent Utah Fuel Company? They are natural persons and subject to confrontation. May they not be confronted?

SUMMATION.

1. The salary (\$15.00) paid to the petitioner herein by the respondent Utah Fuel Company for his services as interpreter and the protection afforded to him was very, very absurd.

2. The respondent Utah Fuel Company was under general contractual obligation to furnish the needed medical treatment, operation, hospitalization, to the brother of this petitioner.

3. The employment of this petitioner as nurse for his brother and the use of petitioner's home and use as hospital was unreasonable, unjust and a breach of its contractual obligations for which it collected pay for the same for years theretofore and thereafter.

4. The duty to transport its patient to Salt Lake City to its general hospital was the duty of the respondent company.

5. The reception by the chief medical staff of the respondent, Utah Fuel Company, of the brother of the petitioner and his entry into its general hospital was in conformity with the usages of said company.

6. The failure to give the needed medical treatment and operation during the first ten days in the hospital and the

placing said patient in the basement without any medical attention was a breach of its contractual obligation.

7. The removal of said patient out of said general hospital of the said respondent by its medical staff and placing him outside as a tubercular to be and remain there to the end of his life was a breach of its contractual obligation as well as an indication to commit a criminal act.

8. The said respondent's failure to use the hospital's X-ray apparatus to diagnose the cause of the case of its patient was a breach of its contractual obligations.

9. The Notice, to-wit: "There is not a thing we can do for your brother." "All we can do is to give him plenty fresh air," given by the said respondent's. Chief Medical Staff to this petitioner was a final notice to the effect that the said respondent-company refused to perform its contractual obligation and thus abandoned the brother of this petitioner to die a martyric death rather than give him the medical treatment-operation for which it received pay for same.

10. The said notice as thus given to the petitioner by said Chief Medical Staff, and this petitioner being the sole and only custodian of his dying brother; dying for lack of medical treatment and operation, your petitioner herein became of duty, moral, Christian, and brotherly duty to remove him to a private hospital and to place him under the care of private doctors.

11. The recovery back to normal health of respondent's patient in private hospital and under private doctors constituted conclusive proof of the respondent's malpractice.

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12. The private hospital received the respondent's patient only on the conditions that if your petitioner **MAKES GOOD THE PATIENT'S** bills and pays the doctors. Thus your petitioner obligated himself to make good and promptly pay all bills if the private hospital would receive the dying brother of your petitioner and afford to him human hospitalization, care and treatment. And thus and only thus your petitioner paid up all hospital and doctors' bills and reasonable-modest convalescent bills.

13. The right to sue and recover the sums expended in the course of discharging the duties of the said respondent Utah Fuel Company thus as aforesaid forced upon your petitioner by the said medical staff of said respondent is: a. Constitutional right (Constitution of the State of Utah, Art. 1, Sec. 11); b. It is a Statutory right (R. S. Ut. 42-1-57); c. A contractual right (R. S. Ut. 42-1-50); d. A common-law right; and e. A Federal Statutory right (U.S.C.A. Tit. 8, Sec. 41).

14. The suit as filed on the 25th day of April, 1919, in the U. S. Dist. Ct. D. of Utah satisfied the requirements of the State Statute of Limitations of the State of Utah.

15. The judgment of the said U. S. Dist. Ct. is the law of the case in so far as it obliged your petitioner to sue the said respondent-company in the U. S. Dist. Court for the District of New Jersey.

16. The said respondent's resorting to the institution of criminal proceedings against your petitioner was its only way out with which they covered their malpractices and infernal and criminal practices and operations.

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17. The character of the said respondent-company is not and never has been free from lawsuit and other judicial or quasi judicial proceedings (The Reported Cases against it. See The Reports of the State of Utah and The Industrial Commission of same State) so as to make it an offense to sue the said respondent-company by your petitioner.

18. The acts constituting a criminal conspiracy are embraced within the law found in R. S. of Utah—103-11-1. The same definition is given by R. S. New Jersey—2:119-1.

19. The position taken and maintained by the Authorities of the State of Utah is unwarranted by the principles of law and usages of the Courts of that State. That state not only has not, or ever have had, a cause of action or right to institute any proceeding against your petitioner, but on the contrary it has deprived him of his property (farm at Corinne, Ut., farm-house, etc.) without due process of law and on perjured affidavits to the effect that your petitioner gave up his property and went to fight for King Ferdinand of Greece. The absurdity of these facts is clear.

20. The position taken and maintained by the authorities of the United States and particularly the Federal Courts for the Districts of Utah, New Jersey, Southern District of New York together with some State Courts, and more particularly District Judge Guy L. Fake of the District Court of the United States for the District of New Jersey is utterly unwarranted as being tainted with favoritism and are repugnant to the Constitution and Acts of Congress of the United States.

21. The conduct of counsel for respondent Utah Fuel Company et als. and Judge Guy L. Fake of the District

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Court of the United States within and for the District of New Jersey present a shocking revelation of the formation and operation of the conspiracy and there is no reason in law why said District Judge should be permitted to take any further part in the case.

22. There is no judicial error in the Opinion of Judge Guy L. Fake, which opinion is now on review before this court, because the said Opinion was formed with deliberation by and between counsel for the respondent Utah Fuel Company and Judge Guy L. Fake, deliberated preparatory to the issuance of the motion upon which it is based.

23. The application for injunction and exhibits attached thereto present a bold revolt against law and order, court rules and judicial proceedings have had in the case and gave to the Federal District Court for the District of New Jersey full and complete jurisdiction over the subject matter and over every person who has in any way participated in the conspiracy now before this Court.

24. The character of your petitioner is of the good character to be found upon any good man in the world; any and all pretenses to the contrary are mere absurdity.

25. There are enemy aliens charged with the crime of sedition and with every other crime against the existence of the Government, and yet, they are afforded the right of the assistance of counsel for their defense and here in this case a peace-loving person, friend of the United States and its citizens as well as all persons within their jurisdiction, persecuted and prosecuted criminally ever since the year 1919; and now we have Judge Guy L. Fake, Senior Judge of the District Court of the United States District of New Jersey, boldly and openly conspiring with counsel for the

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respondent Utah Fuel Company and from the Bench of Justice shouting all these (the proceedings had before him) **ARE ILLEGAL. WATCH THE LAWYERS—WATCH WEINBERGER (ETC.).**

Accordingly, I urge that the Petition for Writ of Certiorari be granted as warranted by the principles of law and usages of this Court. I further urge that the Decree of the Circuit Court of Appeals Third Circuit on Appeal No. 8664 be nullified and made null and void with appropriate directions to make null and void the Orders of the District Court on Motions numbered 1, 2, and 2 by Hon. Thomas Glynn Walker, D. J.; and to the same effect and likewise to make null and void the Opinion of Fake, D. J. and the Orders made and entered thereon dismissing Civil No. 2800 and destroying Civil No. 728 U. S. District Court District of New Jersey.

Respectfully submitted,

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To: United States District Court, District of New Jersey,
Trenton, N. J.;

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